
**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, June 13, 2018
7:00 P.M.**

AGENDA

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**
 - a) ZBA 2018-005**

Owner: Daniel and Kristin Hall
Location: 5150 Redding Drive
Pinckney MI 48169
Parcel ID: 15-22-300-047
Request: Variance application to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.).
 - b) ZBA 2018-006**

Owner: Tim and Diane Comperchio
Location: 5591 Seney Circle
Hamburg Township MI 48189
Parcel ID: 15-34-401-007
Request: Variance application to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.).
- 8. New/Old business**
 - a) Approval of April 11, 2018 minutes and memorialization of findings for ZBA 18-004
 - b) Approval of May 22, 2018 minutes
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens, AICP

**HEARING
DATE:** June 13, 2018

SUBJECT: ZBA 18-005

**PROJECT
SITE:** 5150 Redding Drive
TID 15-22-300-047

**APPLICANT/
OWNER:** Daniel and Kristin Hall

PROJECT: Variance application to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.).

ZONING: WFR (waterfront residential district)

Addendum for June 13, 2018 ZBA hearing

At the May 9, 2018 ZBA hearing, the variance request was continued to allow the applicant an opportunity to redesign the project to reduce the size of the proposed garage. The applicants, in an email May 22, 2018 to staff, indicated that due to the roof line of the existing dwelling they were unable to design a project that moved the proposed garage to the north and would therefore be requesting the same variance at the June 13 hearing as was considered at the May 22 hearing. The minutes from the May 22 ZBA hearing are attached as Exhibit D.

Staff continues to recommend denial of the project for the reasons stated in the staff report published for the May 22 hearing and included below.

Staff report for May 22, 2018

Project Description

The subject site is a 12,763-square foot parcel that fronts onto Redding Drive to the east; Zukey Lake is to the west and single-family dwellings are located to the south, north, and east. The site is currently improved with a 1,248-square foot one-story single-family dwelling. There is a shed located in the front yard that does not comply with the front yard setback standards (Sections 7.6.1. and 8.3.); staff was unable to locate a permit for the placement of the shed. Either the shed needs to be removed from the property or a land use permit application must be made for a compliant location on the site.

If approved, the variance request would allow for the construction of a 732-square foot attached garage that would have a 3.9-foot east front yard setback where a 15-foot front yard setback would be required per Section 8.3.2. No portion of the existing structure is proposed to be demolished. The existing and proposed setbacks for the structure are noted in the table below.

	Existing	Proposed	Required
East (front)	34 feet	3.9 feet	15 feet (for accessory structure)
West (rear)	>60 feet	>60 feet	50 feet from OHM
North (side)	36 feet	36 feet	10 feet
South (side)	5.4 feet	5.6 feet	5 feet

Based on FEMA's Flood Insurance Rate Map (FIRM), a portion of the site lies within the 100-year floodplain. Any development of this site would require a sealed topographical survey with the base flood elevation noted to the nearest tenth of a foot. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township's participation in the NFIP. In NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain areas. If the location of the proposed garage is found to be in the floodplain, either the top of the garage floor must be at least at or above the base flood elevation or the space must be adequately vented with engineered flood openings.

During a site visit on April 25, 2018, staff observed an area of blight in the front yard which is a violation of General Ordinance 38C. No land use permit may be issued until the blight is removed.

Standards of Review

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

There is no exceptional or extraordinary circumstance or condition applicable to the property involved that do not apply generally to other properties in the same district. The existing structure conforms to the zoning ordinance and an accessory structure could be constructed to meet the requirements. The sheer size of the proposed garage is driving the need for the requested variance for a 3.9-foot east front yard setback and is creating the self-imposed practical difficulty. The size of the garage could be either reduced to meet the setback requirements or reduced in size to reduce the scope of the variance request.

Two recently adopted zoning text amendments should be considered by the Board. First, the setback requirements for accessory structures located between the water and the road were recently relaxed to allow for a reduced front yard setback of 15 feet (rather than the 25-foot required front yard setback for the primary structure) and a relaxed side yard setback of a minimum of five feet with an aggregate of 15 feet (rather than the required 10-foot side yard setback).

The zoning ordinance's non-conforming section (Section 11) was amended in November 2017 to allow the expansion of a non-conforming structure's footprint only if the expansion complies with the zoning requirements. Both the Planning Commission and the Township Board approval recommendations show a deliberate attempt by the township to amortize nonconforming structures by requiring compliance with the setback requirements, not create non-conforming structures where one does not exist. Creating a non-conforming structure would not only be contrary to policy decisions recently made by the township but also would create future development constraints for this parcel.

2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

A garage is a customary residential structure. However, creating a non-conforming structure where one does not currently exist does not preserve a substantial property right when the site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. A substantial property right is not preserved based on granting a variance for a particular architectural design. The proposed garage could be reduced in size to comply with the setback standards.

3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

One of the purposes of zoning ordinance setback requirements is to provide for orderly development of individual properties so that the overall effect is not only aesthetically pleasing but also a safe and organized development pattern for pedestrians, vehicles, and neighboring properties. This portion of Redding Drive has been developed with access

easements and non-conforming structures. While the inclination may be to approve the project with a 3.9-foot front yard setback because other structures in the vicinity have been constructed with deficient setbacks, approving the proposed setback would further compound the irregular and disordered development of the property and surrounding vicinity.

4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions waterfront and natural river district zoning closely tied to the lakes and Huron River. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed accessory structure cannot comply with the setback requirements. Zoning text amendments have been recently enacted to address recurrent conditions of waterfront lots that relaxed the standards to allow reduced setbacks and make it easier for lakefront lots to accommodate accessory structures. The proposed garage could be reduced in size to comply with the zoning ordinance. The applicant's findings indicate that the proposed garage is necessary because there is no garage on the property. However, sometime between 2007 and present the attached conforming garage was converted into living space.

6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.

The use of the site is single-family residential and the proposed variance would not change the use.

7. The requested variance is the minimum necessary to permit reasonable use of the land.

The size of the proposed structure is what has created the need for the variance and is thus a self-imposed practical difficulty. There is no site-specific condition of the property that warrants a deviation from the ordinance.

"Practical difficulty" exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

Recommendation

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the

application. In the motion to deny or approve the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board's decision that reflects the Board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

Denial Motion:

Motion to deny variance application ZBA 18-005 at 5150 Redding Drive to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibits

Exhibit A: Application materials

Exhibit B: site and construction plans (to be included in hard copy of report)

Exhibit C: DPW review



FAX 810-231-4295
PHONE 810-231-1000

P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)
VARIANCE/INTERPRETATION
(FEE \$500 plus \$50 each additional)**

1. Date Filed: _____

2. Tax ID #: 15-22-300-047 Subdivision: _____ Lot No.: _____

3. Address of Subject Property: 5150 Redding Dr. Pinckney MI 48169

4. Property Owner: Daniel & Kristin Hall Phone: (H) 517-270-0431

Email Address: Kritall@umich.edu (W) _____

Street: 706 Illinois Ct. City Tecumseh State MI

5. Appellant (If different than owner): _____ Phone: (H) _____

E-mail Address: _____ (W) _____

Street: _____ City _____ State _____

6. Year Property was Acquired: 2014 Zoning District: WFR Flood Plain No

7. Size of Lot: Front 62.5' Rear 81.5' Side 1 175.15' Side 2 149.5' Sq. Ft. ~11480

11. Dimensions of Existing Structure (s) 1st Floor Lake front 51.3x24.4 2nd Floor same Garage NA

12. Dimensions of Proposed Structure (s) 1st Floor NA 2nd Floor NA Garage 30'x24.4'

13. Present Use of Property: Residential

14. Percentage of Existing Structure (s) to be demolished, if any 0 %

15. Has there been any past variances on this property? Yes _____ No

16. If so, state case # and resolution of variance application _____

17. Please indicate the type of variance or zoning ordinance interpretation requested:

Minimum yard setback: Variance desired in order to attach new garage to existing house. Minimum front yard to allow setback of 3.9' vs 15' for proposed garage.

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

The existing structure (house) to which the garage will be attached is located 5.4' from side 2 property line

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

Other properties in area have garages

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

Proposed garage would not encroach on neighboring dwellings or affect neighbors use of their dwellings

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

Several other properties in our area have been granted similar property set back variances

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

Currently no garage on property

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

Will remain residential

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

Proposed building is a standard 2 car garage

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.

Paul Hall 4.12.18
 Owner's Signature Date

Paul Hall 4.12.18

 Appellant's Signature Date



10405 Merrill Road ♦ P.O. Box 157
Hamburg, MI 48139
Phone: 810.231.1000 ♦ Fax: 810.231.4295
www.hamburg.mi.us

DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA18-005 located at 5150 Redding Drive and offer the following:

[] The parcel is not on sewers.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

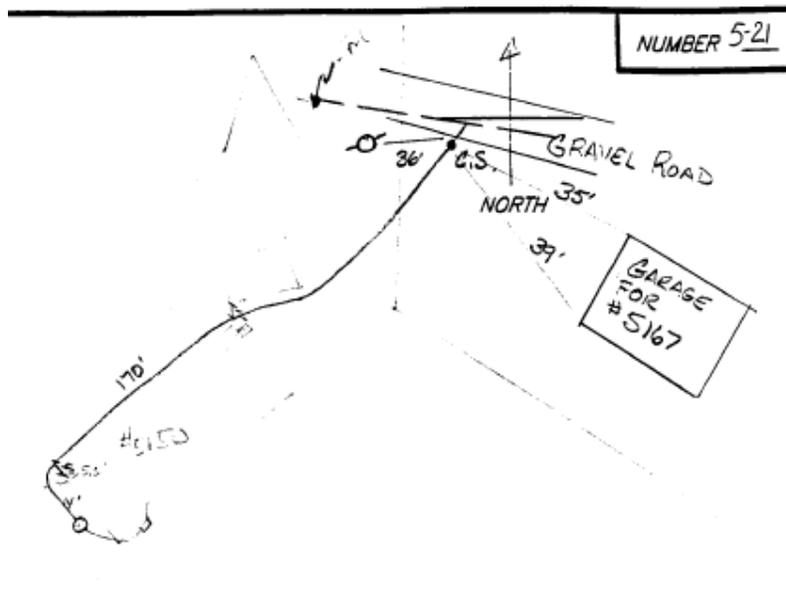
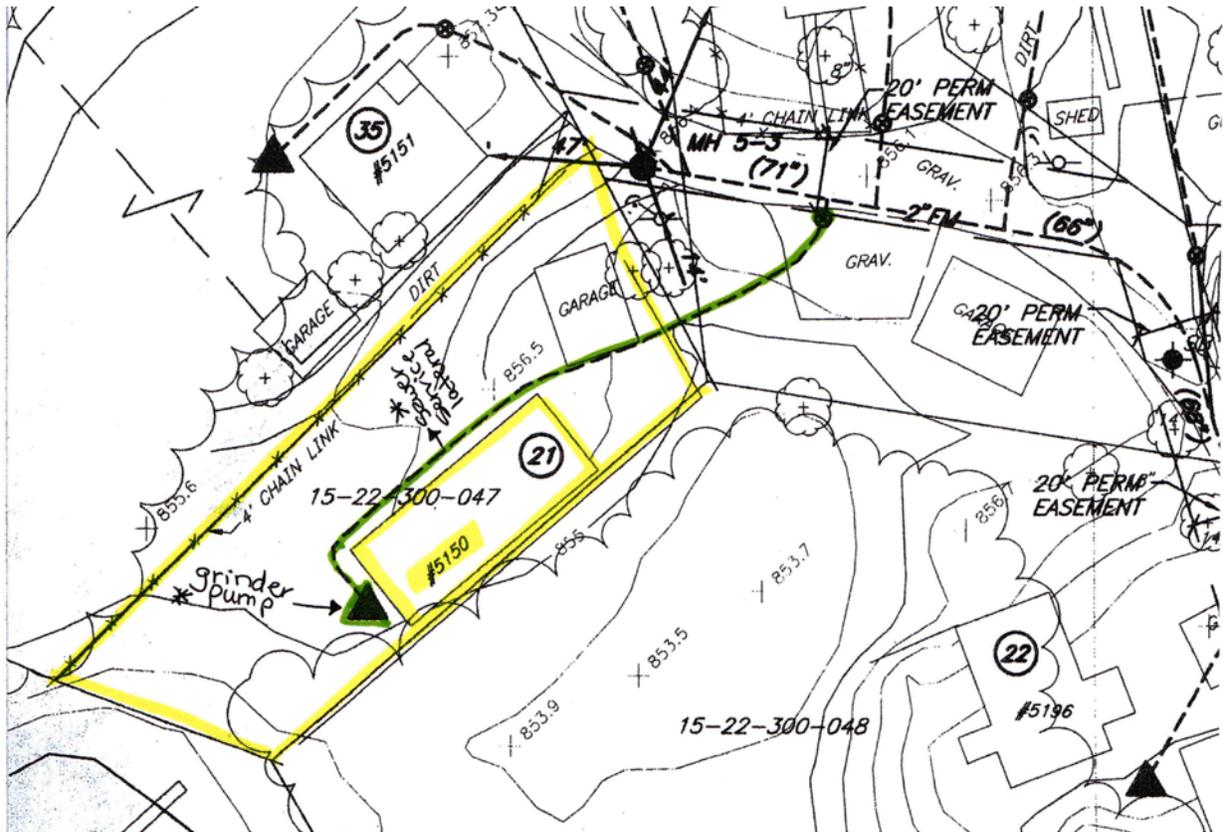
- The property owner is requesting variance to allow for the construction of a 732 sq. ft. attached garage with a 3.9 foot front yard set-back. There is an existing garage on site that must be demolished first in order to construct the newly proposed garage.
- The grinder pump station and sewer service lateral are located on the northeast side of the property. The sewer service lateral was installed to just avoid the existing garage when the sewers were installed around Strawberry Lake in 1995 (see attached sketch).
- Based on the “as-built” drawing for the sewer service lateral location, the requested variance to construct the new garage **will** interfere with the sanitary sewer line location. Be advised, the homeowner will be responsible for all costs associated with relocating the sewer service lateral so that the new garage will not be built over the sewer line. In addition, the property owner shall be responsible for any damages caused to the sanitary sewer service lateral during construction of the property improvements.
- An Agreement Regarding Use of Approved Contractor for Grinder Pump Relocation must be signed by the property owners and a permit pulled by the approved Contractor for the sewer relocation work **must** be completed prior to issuance of the Land Use Permit to construct the new garage if the variance is granted.
- Due to the existing on-site situation regarding the sewer, the DPW/Utilities Department has hereby stated its stipulations and requirements if this variance is granted.
- The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

Dated: April 30th, 2018

Respectfully submitted,

Brittany K. Campbell
Brittany K. Campbell
Hamburg Township Utilities Coordinator

The new proposed garage location will create an issue with the existing location of sewer service lateral. The Utilities Department will require that the sewer line be relocated by a Township approved Contractor if the variance is granted.





Zoning Board of Appeals Staff Report

AGENDA ITEM: 7b



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens, AICP
Zoning Administrator

**HEARING
DATE:** June 13, 2018

SUBJECT: ZBA 18-006)

**PROJECT
SITE:** 5591 Seney Circle N.
(TID 15-34-401-007)

**APPLICANT/
OWNER:** Tim and Diane Comperchio

AGENT: None

Request: Variance application to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.).

Site description and history

The subject site is a 0.30-acre parcel located in the Mystic Ridge subdivision and improved with a 1,935-square foot single-family dwelling. Single-family dwellings are located to the north, south, and east; the west rear yard of the site adjoins the common open space of the subdivision.

On June 10, 2015, the ZBA granted variance approval for the construction of a 17-foot by 14-foot covered porch off of the rear of the existing dwelling with a 9-foot, 11-inch encroachment into the required 35-foot rear yard setback. A land use permit was issued and the covered porch was constructed. Sometime between the construction of the porch in 2015 and 2018, the covered porch was converted into an enclosed three season sunroom. A notice of violation letter was sent to the property owners advising them of the unpermitted building construction on the property in violation to Section 3.3.1. and that permits from both the township and Livingston County Building Department would be necessary.

Because only the covered porch was approved by the ZBA in 2015, variance approval would be required prior to the issuance of a land use permit for the enclosed sunroom. If approved, the current variance request would permit the enclosed sunroom to remain with a 9-foot, 11-inch encroachment into the required 35-foot rear yard setback.

Standards of Review

The Zoning Board of Appeal's (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may only be granted if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

When the subdivision was developed, the rear yard setback was required to be 35 feet, rather than the 30 feet the zoning ordinance requires. The 35-foot rear yard setback does make it impractical for some lots to have accessory structures in the rear yard without variance approval. However, there is ample room to the north and south of the existing dwelling to construct additional enclosed living space and still conform to all setback requirements.

While the rear of the site abuts the subdivision's open space the neighboring properties abutting the open space have developed in accordance with the rear yard setbacks for enclosed living space.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

An enclosed living space is more impactful than the previously approved covered but unenclosed patio. The ZBA did find in 2015 that a covered patio is a customary residential structure similar to those structures on surrounding properties. Staff can find no other variance approvals for accessory structures or enclosed living space on Seney Circle, indicating that neighboring properties have been developed in accordance with the zoning ordinance.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

Enclosed structures are more impactful to neighboring properties than an unenclosed structure. As stated under standards one and two, there is ample room on the site to construct compliant enclosed living space and neighboring properties have been developed in compliance with the zoning ordinance.

4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

The subject property is designated Low Density Rural Residential development in the future use map and is within the South Hamburg/Strawberry Lake Planning Area in the Township Master Plan. The Plan envisions single family residential development.

5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

Requests for rear yard setbacks are common on lots that are constrained by environmental factors (water, wetlands) or small lot size. A zoning text amendment recently adopted by the township allows uncovered at-grade appurtenances to extend up to five feet from a lot line. This text amendment allows for greater flexibility for structures that are not as impactful as covered or enclosed structures. No neighboring properties have received variance approval for either accessory structures or enclosed living space.

6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

The property is currently used for single-family residential and the use will not change if the proposed variance request is granted.

7. The requested variance is the minimum necessary to permit reasonable use of the land.

A covered patio was approved in 2015 and constructed per the variance approval. The decision to enclose the patio, contrary to the previous approval and the permit requirements, creates the self-created practical difficulty that drives the need for variance relief from the rear yard setback requirement. The lot can accommodate enclosed living space in a compliant location.

Recommendation

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and (approve/deny) the application. In the motion to approve/deny the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The Commission then should direct staff to prepare a memorialization of the ZBA decision that reflects the board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

Denial Motion:

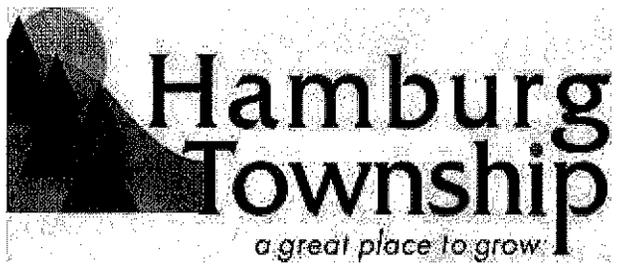
Motion to deny variance application ZBA 18-006 at 5591 Seney Circle to allow a variance application to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Approval Motion:

Motion to approve variance application ZBA 18-006 at 5591 Seney Circle to allow a variance application to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.).The variance does not meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibit A: Application Materials (including project plans)

Exhibit B: June 10, 2015 ZBA minutes



FAX 810-231-4295
PHONE 810-231-1000

P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)
VARIANCE/INTERPRETATION
(FEE \$500 plus \$50 each additional)**

1. Date Filed: 5/23/2018
2. Tax ID #: 15- - - Subdivision: MYSTIC RIDGE SUBDIVISION Lot No.: 7
3. Address of Subject Property: 5591 SENEY CIRCLE N
4. Property Owner: TIM & DIANE COMPERCHIO Phone: (H) 734-550-9521
Email Address: TCOMPERCHIO2@GMAIL.COM (W) 248-767-7363
Street: 5591 SENEY CIRCLE N City HAMBURG State MI
5. Appellant (If different than owner): _____ Phone: (H) _____
E-mail Address: _____ (W) _____
Street: _____ City _____ State _____
6. Year Property was Acquired: 2012 Zoning District: _____ Flood Plain _____
7. Size of Lot: Front 81.44 Rear 127.80 Side 1 130.00 Side 2 130.00 Sq. Ft. 13,164 sq ft
11. Dimensions of Existing Structure (s) 1st Floor 17'w x 14' EXISTING DECK 2nd Floor _____ Garage YES
12. Dimensions of Proposed Structure (s) 1st Floor ENCLOSE DECK (COVERED) 2nd Floor _____ Garage _____
13. Present Use of Property: RESIDENTIAL
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
15. Has there been any past variances on this property? Yes X No _____
16. If so, state case # and resolution of variance application 2015-012 APPROVED COVERED DECK
17. Please indicate the type of variance or zoning ordinance interpretation requested:

REQUESTING VARIANCE TO ENCLOSE APPROVED COVERED DECK
"AFTER THE FACT" (DECK HAS BEEN ENCLOSED)

HAMBURG TOWNSHIP
05/23/2018 11:18:29 AM
185479
1900-6
\$500.00

18. Please explain how the project meets each of the following standards:

a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

~~ORIGINAL~~ ENCLOSING COVERED DECK WAS NOT APPROVED AS ORIGINAL VARIANCE / BACK UP TO WOODS WITH MARY TREE / BUGS

b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

ENCLOSING DECK ADDS VALUE FROM PROTECTING AGAINST BUGS / RAIN SNOW, TREES (BACK UP TO WOODS)

c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

GRANTING VARIANCE WILL NOT BE DETERMINATE TO PUBLIC DUE TO NO OTHER HOMES ATC IN NEARBY PROPERTY.

d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

COVERED DECK HAS BEEN APPROVED WITH VARIANCE, W/ SET BACKS. / NEED TO BE APPROVED FOR ENCLOSING

e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

THE ENCLOSURE IS A 3 SEASON ROOM, DOES NOT NEED CURT IN CONSTRUCTION OF MORE DECKS TO HOME

f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

GRANTING VARIANCE WILL NOT ENCROACH IN DISTRICT RIGHT OF WAY IN SOB.

g) The requested variance is the minimum necessary to permit reasonable use of the land.

THE REQUEST OF VARIANCE IS MINIMUM REQUEST FOR LAND USE OF HOME. / GIVES ENCLOSURE FROM NEARBY

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after six (6) months, unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).


Owner's Signature _____ Date _____

Appellant's Signature _____ Date _____

VARIANCE: A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

VARIANCE STANDARDS:

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.
 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.
 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.
 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.
 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;
 7. The requested variance is the minimum necessary to permit reasonable use of the land.
- B. For the purpose of the above, a "practical difficulty" exists on the subject land when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public

streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

VARIANCE APPLICATION CHECKLIST:

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

- _____ **1. Zoning Board of Appeals Application Form**
All Drawing should have a north arrow and be to scale
- _____ **2. Site Plan with following information:**
 - a) Location and width of road (s) and jurisdiction (public or private road).
 - b) Location and dimensions of existing/proposed construction.
 - c) Dimensions, designation, and heights of existing structures on property clearly marked.
 - d) Dimensions of property.
 - e) Location and dimensions of required setbacks
 - f) Measurement from each side of existing and proposed structure to the property lines.
 - g) All easements
 - h) Any bodies of water (lake, stream, river, canal) with water body name.
 - i) Distance from any body of water.
 - j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
 - k) All areas requiring variances clearly marked with dimensions and amount of variance requested.
 - l) Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
 - m) Any other information which you may feel is pertinent to your appeal.
 - n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.
- _____ **3. Preliminary sketch plans** may be submitted for the Appeal in lieu of final construction drawings.
 - a) Elevation:
 - i. Existing and proposed grade;
 - ii. Finished floor elevations
 - iii. Plate height
 - iv. Building height

- v. Roof Pitch
- b) Floor plans:
 - i. Dimension of exterior walls
 - ii. Label rooms
 - iii. Clearly identify work to be done
 - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)

4. Proof of Ownership: Include **one** of the following:

- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
- b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit

VARIANCE PROCESS:

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held of the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15 days) prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**

5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

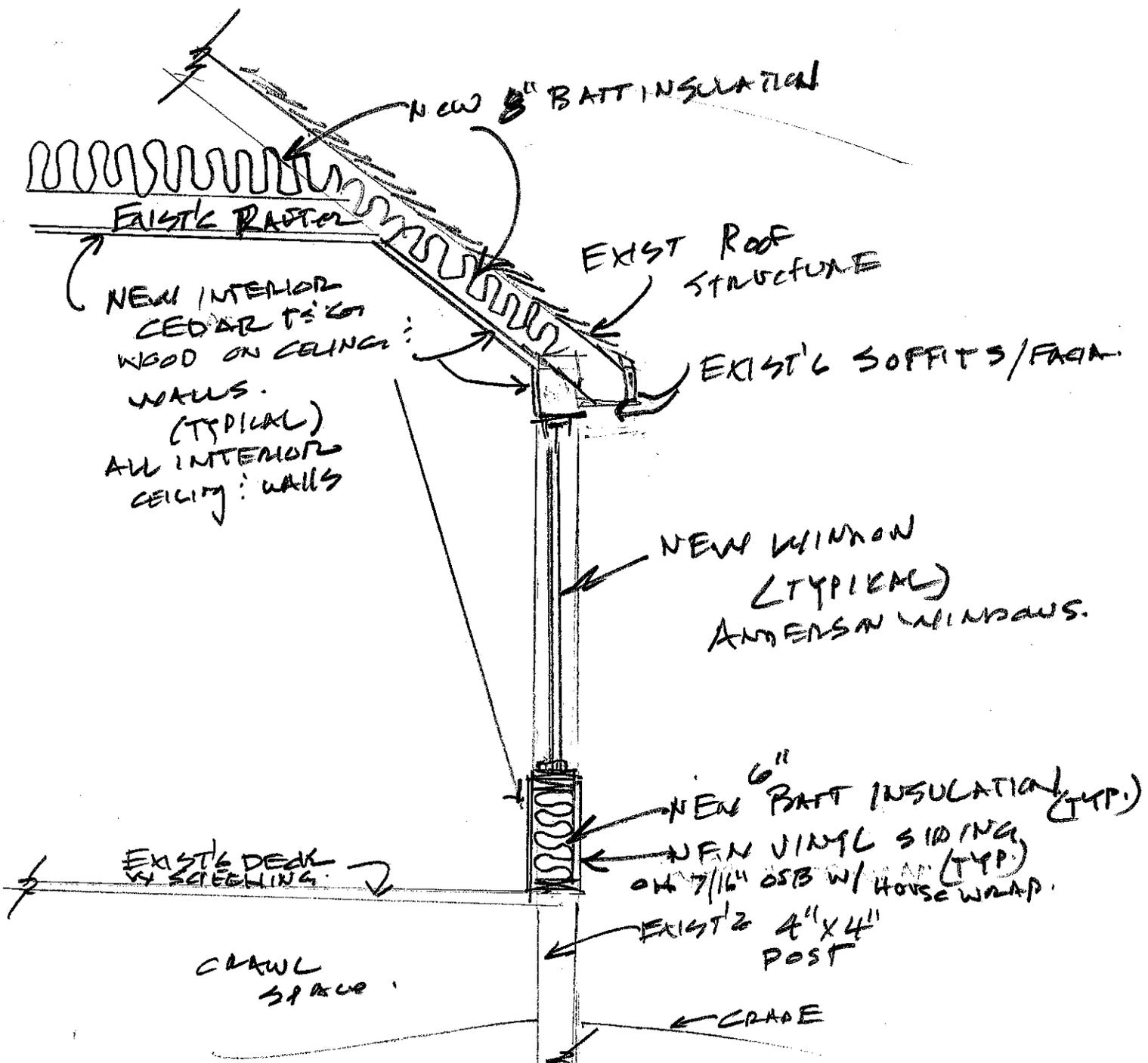
Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied

Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.



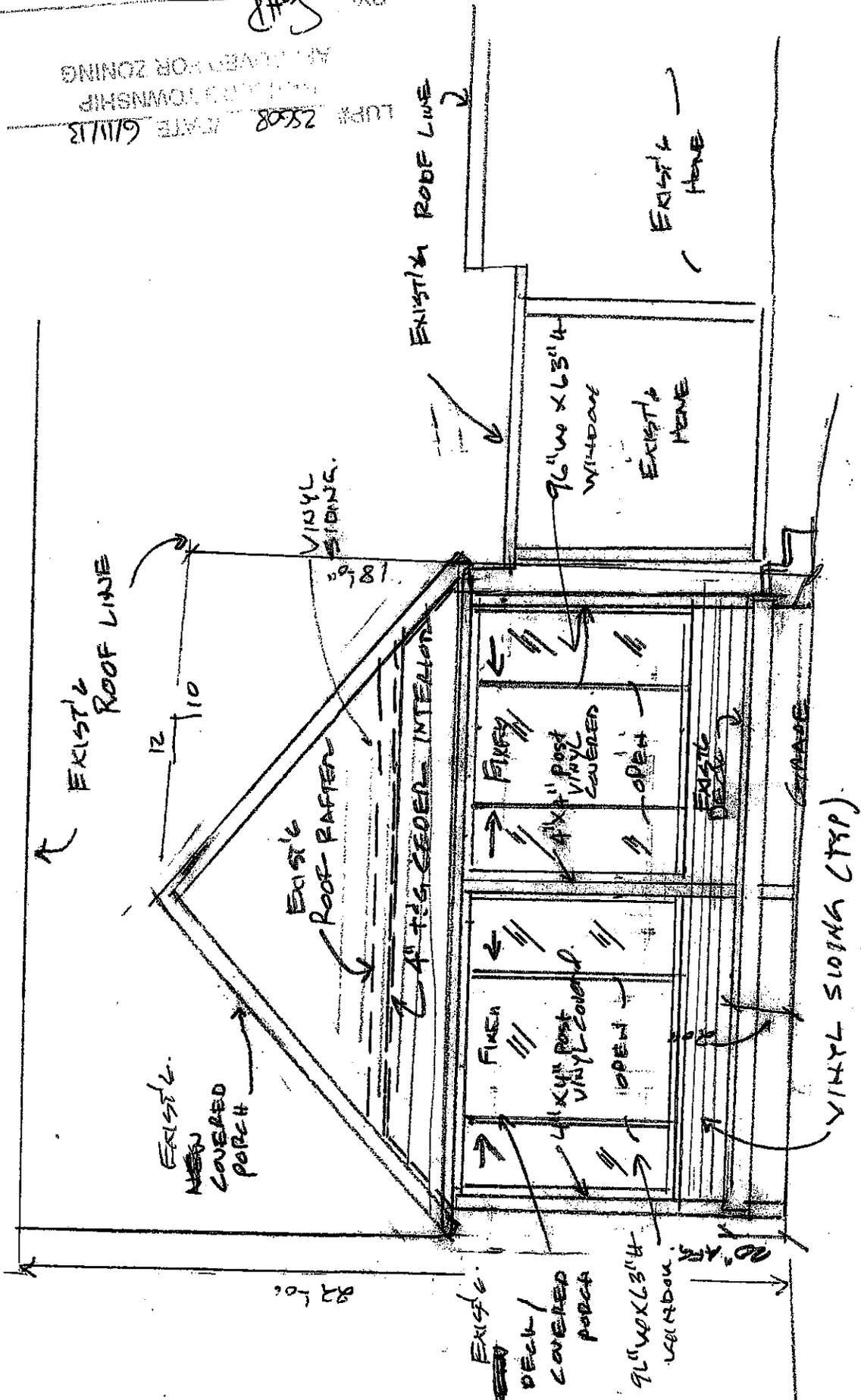
NOTE: 3 SEASON ROOM
NO HEAT/AC.

WALL SECTION
1/2" = 1'-0"

ONLY REVISIONS ARE VALID

DATE 6/11/13
TOWN OF
APPLICANT'S TOWNSHIP

BY Scott



WEST ELEVATION

EXISTING ROOF LINE

EXISTING ROOF LINE

VINYL SIDING

EXISTING ROOF RAFTER

CAT'S CEDAR INTERIOR

EXISTING COVERED PORCH

EXISTING DECK / COVERED PORCH

96" W X 63" H WINDOW

96" W X 63" H WINDOW

EXISTING HERE

EXISTING HERE

VINYL SIDING (TYP)

GRADE

60" H

12 110

81

81

HAMBURG TOWNSHIP ZONING BOARD OF APPEALS

**Wednesday June 10, 2015
Hamburg Township Hall
10405 Merrill Rd., P.O. Box 726
Hamburg, Michigan 48139
7:00 p.m.**

1. Call to order

The meeting was called to order by Chairman Wiggle at 7:00 p.m.

2. Pledge to the flag

3. Roll Call

Present: Stefansky, Priebe, Wiggle, Watson, Eckman
Also Present: Scott Pacheco, Zoning and Planning Administrator

4. Correspondence

There was no correspondence.

5. Approval of the Agenda

**Motioned by Priebe and Supported by Eckman to approve the agenda, as corrected:
tabling agenda item 7C due to improper notice and elimination of agenda item 8 because
minutes were not completed.**

Voice Vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

6. Call to the public

Pacheco asked that if any members of the public had comment on item 7C, 11442 Algonquin, they should come forward. Pacheco indicated that he had been speaking with the project architect and the project would be heard on July 8, 2015. There was no response. Thus, the call was closed at 7:04 p.m.

7. Variance Requests

7A: ZBA 2015-012

Agent: None
Owner: Tim and Diane Comperchio
5591 Seney Circle
Pinckney, MI 48169
Location: 5591 Seney Circle
Parcel ID: 15-34-401-007

Request: Variance applications to allow a new covered porch to encroach 9 feet 11 inches into the required 35 foot rear yard setback (section 7.6.1 and 8.17.3).

Wiggle asked for the applicant to come forward. Tim Comperchio indicated that a neighbor was granted a variance for a similar project. Based on the setback, the porch cannot be that large and he would like to have space for family to sit on the porch. There is no development behind the property, just woods. None of the neighbors opposes the project.

Wiggle said that under the ZBA rules a variance granted on another property has no bearing on the applicant's request and each case is taken on its individual merits. Comperchio said that he understood.

Wiggle asked for questions from the Board. Watson asked if the homeowner's association allows a screened-in porch. Comperchio said that that is allowed but there is no plan at this point to screen-in the porch. Watson asked if the neighbor to the right had a problem with the porch. Comperchio answered no. Wiggle reminded the applicant that the Board does not consider private neighborhood covenants.

Wiggle opened the public hearing. There was no response, and the public hearing was closed.

Pacheco did not receive any correspondence. Wiggle asked for additional concerns or questions.

Priebe asked Pacheco if this was an open-space development. Pacheco answered that it is and the lot currently backs up to what is considered the open-space so that land will not be developed. Priebe asked Pacheco if the development had higher density because of the open space; Pacheco was unsure but said that the open space did not leave much room in the rear for decks. Eckman said it was similar to Whispering Pines. Priebe said that when the open-space development was created, a homeowner's difficulty in putting in decks was not considered. Eckman indicated that the Planning Commission had tried to correct that but by the time Whispering Pines was reviewed, 80 percent of the homeowners had received variances already and it was too late.

Wiggle indicated that DPW had no issue with the encroachment or grider pump.

Motioned by Eckman and supported by Priebe to approve the variance ZBA 2015-012, parcel ID 15-34-401-007 for the construction of a 17-foot by 14-foot covered porch off the rear of the existing dwelling in accordance to the plans submitted April 28, 2015 to the Township, because it encroaches nine feet, 11 inches into the required 35-foot setback, because it meets the variance standards of the Township Ordinance Section 6.5, one through seven as discussed in tonight's meeting, and that staff be directed to prepare a memorialization of findings to be presented at the next meeting for final approval.

Voice Vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

(810) 231-1000 Office
(810) 231-4295 Fax



Supervisor: Pat Hohl
Clerk: Mike Dolan
Treasurer: Jason Negri
Trustees: Bill Hahn
Annette Koeble
Chuck Menzies
Jim Neilson

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, April 11, 2018 Minutes
7:00 P.M.**

1. Call to order:

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Bohn, Hollenbeck, Neilson, Priebe and Watson

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

6. Call to the public:

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

7. Variance requests:

a. ZBA 2018-004

Agent: Angelini & Associates Architects

Owner: Stephen and Catherine Boston Living Trust

Location: 9658 Zukey Drive Pinckney MI 48169

Parcel ID: 15-22-301-001

Request: Variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,873-square foot dwelling. The proposed dwelling will have a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.) and an 11-foot north side front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for corner lot, Section 7.6.1.fn4.).

Variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback

required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).

Theresa Angelini of Angelini & Associates Architects clarified the project description and the requested variances. She reviewed the proposed project including a partial demolition of the existing structure and utilizing 100% of the existing foundation, except the porch foundation on the lake side which they believe is not structurally reliable. Most of the walls on the south and east sides will remain. The existing ground floor is 1589 square feet, they will be adding 556 square feet for a total ground floor of 2,145 square feet. They are adding roughly 25% more square footage. The second floor existing is 2,580 square feet and are adding roughly 1,300 square feet. The total square footage will be 3,877. From the ordinary high water mark, the existing dwelling is 29 feet 3 inches and the proposed dwelling would have a 33 foot setback. She stated that none of the dwellings in the area meet the required 50 foot setback. She reviewed the current setbacks in the area and stated that enforcement of that setback would create a hardship that the surrounding property owners do not have. She further discussed the elevation of the house, grade and 100 year floodplain. Mr. Angelini reviewed the design of the house. Ms. Angelini reviewed the site layout including the fact that it is a corner lot with a 25 foot setback on the north side, which they are asking to be reduced to 11 feet. She discussed the garage. She stated that currently the footprint overlaps the property line by .9 feet and they have moved the north end of that east wall back 1 foot so it is back from the property line 2.7 feet. She stated that they are proposing the pergola to soften the connection of the detached garage and the house from the street. It is open on top and is not much more than a garden element. She discussed the standards of review. She stated that this is a corner lot and has additional restrictions that do not apply to other properties. The lot size is 9,627 square feet which is slightly larger than some of the properties in the Petty's subdivision, but it is significantly less than the minimum lot size as stated in the zoning ordinance for Waterfront Residential. The lot width is 74.75 feet or 60% of the required width. The staff report indicates that the dwelling could be demolished and replaced with a conforming structure, however that would result in a subdivision type house. They feel that the scale of that would be wrong for the site. The staff has described the garage addition as minor. However they feel that it makes the space much more functional. She discussed the November 2017 Zoning Text Amendment. She further stated that there is no basement so the additional storage is needed. The proposed remodeling and addition does not block the view from the north or south and they are proposing to move that back an additional 4 feet from the existing house improving the current setback from the ordinary high water mark. Since all of the homes in the area are built within that 50 foot setback, it would be unreasonable to hold this applicant to that standard. She further discussed the need for storage space and adding that to the existing garage rather than an additional accessory structure. They believe that none of the variances requested are detrimental to the public welfare or materially injurious to the properties in the district nor will they adversely affect the purpose or objectives of the master plan. She further discussed the estimated demolition and the desire to use portions of the existing dwelling. She discussed the existing cottages and houses in the area. The practical difficulty here is that the lot is ¼ the size stated in the zoning ordinance, all the homes in the area have setbacks within that 50 foot required setback, and they are re-using the existing structure as much as possible.

Planning & Zoning Administrator Steffens described the subject site, existing conditions and the existing and proposed setbacks. She stated that the ordinance considers a lot to be a corner lot even if the right-of-way that it touches is unimproved. In this case it is platted that way, and in the future it could be improved. Ms. Steffens discussed the ordinary high water mark. She stated that this is separate from the 100-year flood plain. The applicant has supplied a topo survey, but it is not sealed which will be required. It does show that the proposed structure is outside the flood plain. The ordinary high water mark has no relation to the flood plain elevations. They also understand that the ordinary high water mark can change over time. She stated that the Board is bound to find that the application would or would not comply with the seven standards of review. She reviewed the staff's findings. She stated that the lot could accommodate a compliant structure but the chosen design creates a self-imposed practical difficulty. With the demolition of approximately 70 percent of the existing walls, the project could be designed to meet the setback standards. Staff does find that the requested north front yard setback variance is a reasonable deviation from the ordinance based on the unlikelihood that the platted right-of-way would be developed as anything other than unimproved lake access. However, the requested setback from the ordinary high water mark and the setback for the garage are a

concern. The applicant has indicated that because the lot is smaller than the minimum lot size required for the waterfront district, it creates an exceptional or ordinary circumstance. However, the one-acre requirement is applied when creating a lot. The vast majority of our lakefront subdivisions were platted with 50-foot lot widths. This is actually a sizeable lot for lots within the waterfront district. The removal of the majority of the structure does present the opportunity to bring the structure into compliance. Additionally, the garage addition would increase the nonconformity of a structure that basically sits right on the street. Our ordinance is designed to get rid of nonconformities, not make the nonconformity greater. She stated that the pergola is a self-imposed practical difficulty. It is something that is desired and not needed. The site is zoned for single family uses and can be used for such a use. With 70% of the walls being removed, there is no reason to approve further encroachment into the setbacks. Additional living space could be constructed on the other side of the street. The location of the addition is a self-created practical difficulty. Also, as it relates to the additional garage storage, additional storage could be located elsewhere on the site in a conforming location. Furthermore, the proposed pergola's deficient setbacks is due to personal preference. She stated that the setback from the ordinary high water mark is intended to protect an open vista to the water from neighboring properties. Permitting a new structure to impede on the waterfront setback when there are alternative locations is detrimental to the public welfare, particularly those properties that have been built with a compliant setback. She discussed the master plan vision of the area and stated that the proposed request would not adversely affect the purpose or objectives of the Master Plan. She further discussed review standards 5-7 as it relates to the site. The lot could accommodate a compliant structure, but the chosen design creates a self-imposed practical difficulty requiring variance approval. The project could be designed to meet the setback requirements. Ms. Steffens presented a drawing of the lot drawn to scale and included the required setbacks and building envelope and showed how the house could be built in a compliant location. The Board is here to determine if there is something so restrictive with the lot that a compliant structure could not be built. Clearly it can.

Ms. Boston, applicant, stated that what is being missed is that they are trying to preserve what they can of a 100 year old house. They do not want to tear down the house and build a new house. They have spent a lot of money to try to preserve a 100 year old home that they love. After many plans, this is what they have come up with. There is a beautiful aesthetic along that strip and that is what they are trying to preserve.

Member Bohn stated that all of the houses to the south have substantially less than 50 foot setback from the high water mark. Discussion was held on the engineering and the use of the FEMA map to determine the high water mark.

Member Watson stated that he still has a problem with the front yard setback at the unimproved right-of way. The existing setback is 27 feet and proposed is 11 feet. You cannot ignore the setback simply because you want a bigger structure. He agrees that a lot of the structures are non-conforming, but if they chose to re-build, they would also have to meet the setbacks.

Chairperson Priebe opened the public hearing.

Mr. John Lamb of 9700 Zukey Drive stated that he does have some concern particularly with the 11 foot side setback. He stated that he and some of the other residents have been discussing putting gravel down on the access to the lake. The applicants have approached some of the residents because they do not feel that they should be using that access to park their boats and trailers, which they have been doing since the 1950s. His understanding when he bought his property was that was the intent for the residents in the subdivision. They do not want to lose their rights to that property. They are concerned that if the house is that close to the easement, then they will end up putting grass there, etc. He is also concerned about the road during construction. It is a private road maintained by the residents. They would hope that they would maintain the road as they are building or restore the road when they are complete. Finally, this is already a non-conforming property and they are requesting an additional three variances making it even more non-conforming.

Mr. Nick Graham of 9669 Zukey Drive stated that he lives across the road from the Boston's. One of the concerns he has is the site lines. They are requesting to take the home that is already encroaching on the south side and extending it further to the north side. He is losing his site lines. When he purchases a property, he knows the provisions and the setbacks. Prior to purchasing that property, he has a plan. They are already encroaching the setbacks on the lake side, the south side and the east side, and they are now asking to encroach even further on the north side. He is concerned about the site lines and how it affects his property value into the future.

Mr. Paul Stark of 9638 Zukey Drive stated that he lives to the north of the Boston's and has been on the lake since 1968. The Boston's house was his brother's house, and he gave a brief history of the property. Unfortunately, the houses all along that road are non-conforming. To try and correct some of these things is going to be difficult. To tear down the house to make it fit does not make a lot of sense. We want to use what's there and make sense of it. Ever since he has been there, nobody knew what that right-of-way was. People have been able to use it to whatever extent they wanted. There will never be a road there. When his brother owned the home, he made some improvements, but there are still a lot of deficiencies. We can try to use common sense here. If changes can be made, he would hope that they don't have to tear down the entire building. He does not have any opposition to what they are trying to do. He stated that he knows the Bostons, and they are trying to do what is right to meet the requirements but yet not start from scratch. If you move the structure back from the water, then they will lose their view because of existing structures.

Marlo Stevens of 9708 Zukey Drive stated that she is fairly new to the subdivision. She recently added an addition to her house and did not have to ask for any variances. When she moved in, she was told that they did have the access that they could use to park boats and trailers, etc. They do not have a homeowner's association. They all work together. She has had a knock on her door from someone saying they could not park their stuff on the common area. She does not want them to encroach the area that is common to all of them.

Elizabeth Ann Winter of 9715 Zukey Drive stated that area has always been known as common area. It is used and it always looks nice. She agrees that having a defined space is important for those who use it.

Mr. Rick Beaudin of 9676 Zukey Drive stated that the good thing that has come out of this is that the neighbors have gotten together to discuss the access. Now they are finding out that it is a road. They need to have a discussion about what they are going to allow there. He does not have a problem with the variance, but they cannot tell us that they cannot park there.

Mr. Boston, applicant, stated that this is about the variance to the property not so much about the road. He did not strong-arm anyone, but he did talk to people. There is no intent to take down the fence or develop the road. Since it is a drive, they are asking that it be treated as a drive. They have used it for storage and are in agreement to move their equipment somewhere else. They feel that their proposal is consistent with other remodels that have been done in the area. They have been trying to work with the existing footprint as much as possible while trying to expand it to what they want out of a lake house. If they were to meet all of the setbacks, it would look like a neighborhood house out of a typical subdivision, not a lake house they intend it to be. They feel that the variances they are requesting are fair and reasonable to meet the design they are trying accomplish and still meet the requirements with as few variances as possible. He appreciates everyone's time and comments.

Chairperson Priebe closed the public hearing.

Chairperson Priebe stated that the ZBA deals only with zoning. Issues dealing with the lake access would be a civil matter. We are looking at the variance requests as submitted.

Commissioner Bohn asked how that access is platted. Planning & Zoning Administrator Steffens stated that it is a platted right-of-way dedicated to the use of the owners within the subdivision.

Steffens stated that there has been discussion regarding a fence along the right-of-way. Staff would like to point out that a fence is not allowed within 50 feet of the ordinary high water mark.

Chairperson Priebe stated that her biggest concern is the garage issue.

Member Watson asked if the Board could ask the applicant to re-look at this to possibly reduce the variance request. Steffens stated that the Board could table the issue to the next hearing to allow the petitioner time to re-work their plan.

Chairperson Priebe stated that the Board could approve or deny all or part of the request. If it is denied, the applicant could not make a request for a year unless the plan is substantially different than the original request.

Member Neilson stated that the request is to go from 2500 square feet to over 3800 square feet. Something in between could meet the setbacks. He feels that there are too many things that are self-imposed.

Steffens discussed an alternative design.

Mrs. Boston stated that they would be willing to forgo the pergola and additional space to the garage if it is helpful to reach a conclusion.

Member Bohn stated that he does not feel that we will ever be able to achieve 50- foot setback to the high water mark on this road. And, it is completely for aesthetic purposes, not a safety issue.

Motion by Bohn, supported by Hollenbeck

Motion to approve variance application ZBA 18-004 at 9658 Zukey Drive to allow for the construction of a dwelling with an 11-foot north front yard setback from platted right-of-way (25-foot front yard setback required for a corner lot, Section 7.6.1.fn4.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist (predominantly the shape and location and size of the lot and its relationship to an undeveloped, dedicated, and used by the subdivision. right-of-way) on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report and allow for a 3,877 square foot dwelling with a 34.5 foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water mark is required by Section 7.6.1) The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site (predominantly its orientation to the lake and it's lot size relative to other waterfront lot sizes) when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Steffens asked if the intent of the motion is that any of the existing structure could remain. Staff has indicated that the entire structure could be removed. Member Bohn stated that the intent is to approve the variance request as submitted with no more than 70 percent of the existing structure being removed. This is an improvement to an existing structure with those features to be preserved. If those walls were to be removed, it would not comply with the approval.

Voice vote: Ayes: 2 Nays: 3 Absent: 0 MOTION FAILED

Member Watson again discussed the applicant going back to re-design the request.

Motion by Watson, supported by Neilson

To deny a variance application to allow for the addition to an existing non-conforming detached garage. The addition would have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage would have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 3 Nays: 2 Absent: 0 MOTION CARRIED

Chairperson Priebe stated that the applicant has the option of re-designing the garage and making another request at a future date.

It was stated that the existing house is already within the 50-foot setback to the high water mark. Any addition to a non-conforming structure has to comply with the setbacks. You could keep what is there, but anything added would have to be 50 feet back from the high water mark and 25 feet back on the north.

8. New/Old Business:

- a. Approval of March 14, 2018 meeting minutes and findings of fact for ZBA 18-003

Motion by Neilson, supported by Watson

To approve the March 14, 2018 meeting minutes and findings of fact for ZBA 18-003 as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

Steffens stated that the 2020 Master Plan Update kick-off meeting is tomorrow here at 1:00 p.m. Chairperson Priebe and Member Neilson are on the steering committee. We welcome anyone interested in attending and would love to have additional Board members attend. We will introduce the steering committee, the process, the schedule and set our next meeting date. We will have a mix of daytime and evening meetings.

9. Adjournment:

Motion by Hollenbeck, supported by Watson

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

The meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved
As presented/Corrected: _____

Joyce Priebe, Chairperson



FAX 810-231-4295
PHONE 810-231-1000

P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**ZONING BOARD OF APPEALS
MEMORIALIZATION OF FINDINGS**

April 11, 2018

Approval of Variance (18-004)

PROJECT SITE: 9658 Zukey Drive
TID 15-22-301-001

APPLICANT: Angelini & Associates Architects

OWNER: Stephen and Catherine Boston

PART I – PROJECT DESCRIPTION

Variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,877-square foot dwelling. The proposed dwelling will have a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.) and an 11-foot north side front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for corner lot, Section 7.6.1.fn4.).

Variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).

PART II– FINDINGS FOR DENIAL

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

Variance Standards

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The zoning ordinance's setback requirements are intended to provide flexibility and accommodations for waterfront lots and the site, at 9,627 square feet, is a sizeable lot size for the waterfront residential district. A structure conforming to the setback from the ordinary high water mark of Zukey Lake could be constructed on the site. With the removal of a majority of the existing dwelling the opportunity exists to bring this site into compliance with the setback from Zukey Lake that the township strives to protect. Adding a pergola to the garage creates a self-imposed practical difficulty and is not due to an exceptional or extraordinary circumstance applicable to the property.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. Approximately 70 percent of the exterior walls will be removed to accommodate a new dwelling. With the majority of the dwelling being demolished, staff finds no compelling reason to approve further encroachment into the setback from the ordinary high water mark. Additional living space could be constructed on the street side of the site, well within the setback requirements. The location of the addition is a self-created practical difficulty.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The setback from the ordinary high water mark is intended to maintain and protect an open vista to the water from neighboring properties. Permitting a new structure to impede on the waterfront setback when there are alternative locations to construct additional living space is detrimental to the public welfare, particularly those properties that have been built with a complaint setback.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions waterfront and natural river district zoning closely tied to the lakes and Huron River. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed dwelling cannot comply with the ordinary high-water mark setback standards. The site is a sizeable waterfront lot and there is adequate room in the east front yard to construct additional living space. Zoning text amendments have been recently enacted to address recurrent conditions of waterfront lots. The subject site can accommodate a compliant structure. Removing a nonconforming structure to construct another nonconforming structure is not consistent with the intent and spirit of the zoning ordinance.

6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.

The use of the site is single-family residential and the proposed variance would not change the use.

7. The requested variance is the minimum necessary to permit reasonable use of the land.

The lot could accommodate a compliant structure but the chosen design creates a self-imposed practical difficulty requiring variance approval for both the dwelling variance requests and the garage addition requests. With the demolition of approximately 70 percent of the linear feet of the existing walls, the project could be designed to meet the setback standards.

Denied by the Hamburg Township Zoning Board of Appeal at a regular meeting on April 11, 2018 by the following vote:

AYES:	BOARD MEMBERS:	Bohn, Hollenbeck
NOES:	BOARD MEMBERS:	Priebe, Watson, Neilson
ABSENT:	BOARD MEMBERS:	

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Supervisor: Pat Hohl
Clerk: Mike Dolan
Treasurer: Jason Negri
Trustees: Bill Hahn
Annette Koeble
Chuck Menzies
Jim Neilson

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, May 9, 2018 Minutes
7:00 P.M.**

1. Call to order:

The meeting was called to order by Acting Chairperson Bohn at 7:00 p.m.

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier (alternate Member), Bohn, Hollenbeck, Neilson, and Watson

Absent: Priebe

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittany Stein, Planning/Zoning Coordinator

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

6. Call to the public:

Acting Chairperson Bohn opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

7. Variance requests:

a. ZBA 2018-005

Owner: Daniel and Kristin Hall

Location: 5150 Redding Drive Pinckney MI 48169

Parcel ID: 15-22-300-047

Request: Variance application to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.).

Mr. Daniel Hall, applicant stated that this property has been in his family for approximately 30 years and it is need of repair and remodel. He and his wife have made the decision to relocate to Hamburg and make this their retirement home. What the Board is seeing is Phase 1 of the total outside remodel. They will be looking at adding a dormer onto the existing structure to match the garage dormer, match the siding around the structure and also some remodeling on the inside. They have tried to come up with a plan to make the most efficient use of the property without blocking anyone's views of the lake. They are proposing to use an area of the site that has been used as a dumping area, overgrown with weeds, what is left of an old shed, etc. If this is approved, the old foundation will be dug up and removed. He is unaware of the process, but the memo from staff outlines the reasons why his request should not be approved along with a proposed denial motion. There is no reason to go through the request if there is an assumption already made. He stated that he has been in construction for over ten years including several new homes as well as remodels. He has come up with a plan that would not encroach on anyone else's property, limit the use of their property or block their lake views and still have the most efficient use of the property. His goal is to get everything under one roof and not have sheds spread across the property. There are some existing hardships on the property not caused by him. The placement of the current house does not give him enough room for even a standard two-car garage. Even a 24-foot by 24-foot garage would require a variance. Asking for the additional 6' would eliminate the need for a shed or sheds that would not be aesthetically pleasing. The area that he is asking for a variance would not block anyone's view or affect public welfare or safety in any way and would allow adequate emergency access. He has spoken to all of the neighbors and they all felt that it was a great idea, and there is already some redevelopment in the area. He has tried several different configurations on the property and can find no place to put it and effectively utilize the property. He understands that he could put a single car garage without a variance. He realizes that financial considerations are not part of this, but adding a one car garage is not financially feasible. He does not think that it would improve the property to the point where he would recoup the cost. At the northern end of the current structure, it refers to as a garage. Maybe at some point it was, but it is 11 feet wide with a 7-foot ceiling and swing doors. It is almost impossible to park a car and is simply a storage area. If he is going to remodel, it will probably have to be brought up to standards, and it does lend itself to living space possibly laundry or bathroom. Mr. Hall stated that the DPW review letter discusses the need to demolish an existing garage, yet that garage is no longer there. At one point there was a single car garage or two structures side by side that was labeled as a garage. Finally, he does understand that to go ahead with this project, they do need to move the sewer line that currently runs down the center of the property. There is only one access to the property which is through easement through an adjacent property so he could not move the driveway to accommodate anything else. He stated that in the review letter, it states that granting the variance would create development constraints on the parcel and he does not understand what future development that would refer to. He stated that most of the homes in the area have access to a two-car garage and that is standard these days. Not having a garage does restrict the property. He does not feel that it would affect the public welfare or safety. It would not hinder any construction on any adjacent property. The review letter talks about compounding the irregular or disordered development of the property and he is not sure what that means.

Amy Steffens, Planning & Zoning Administrator, reviewed the details of the property. There is currently a 1,248 square foot dwelling. There is a shed in the front yard that does not conform to our ordinance nor was there any permit pulled. It either needs to be removed from the property or made compliant. The applicant is asking for a 732 square foot attached garage. Instead of the required 15-foot required setback, the garage would have a 3.9 foot east front yard setback. No part of the existing structure is being proposed to be demolished. One of the issues they deal with on a regular basis is the flood plain. A portion of this property is within FEMA's Special Flood Hazard area so any development on the site will require a sealed topographical survey. We need to make sure that you are not going to build into the 100-year floodplain. Staff did note an area of blight which was the hot water heater which does need to be removed before we

issue any permits. The ZBA considers requests for variances on a site by site basis, and what we have to look at are the seven standards of review. These apply to the property, not the owner. She reviewed those standards. The existing structure conforms to the ordinance. There is nothing about this lot nor the placement of the structure that is non-conforming. What is driving the need for the extreme variance request is the size of the garage that is being proposed, not something particular to the site itself. The size of the garage could be reduced to a two-car garage, which would still require a variance but lessen the scope of the variance, or it could be relocated on the site to comply with the Zoning Ordinance. It should also be noted that we have had two recent ordinance amendments that deal with non-conforming structures and waterfront lots. The setback restrictions for accessory structures between the water and the road were recently relaxed because the Board was seeing a lot of requests for lakefront lots, and the accessory structures on the road side had to comply with the 25 foot setback. We realized that was not appropriate in many cases and impossible in many cases. We reduced that requirement from a 25 foot to a 15-foot front yard setback for accessory structures to give property owners room to develop their site. Also the 50% of the market value rule for the non-conforming section of the ordinance was removed but said that you do need to come into compliance with the zoning ordinance. Our ordinance is set up to amortize non-conforming structures by requiring compliance with the setback requirements. What this request does is make a non-conforming situation where one does not exist. It also constrains future development because if living space is ever desired over the garage, it would not be permitted because you would have to go back 25 feet to meet the setback standard so are we setting ourselves up where another variance would be required. Ms. Steffens stated that the Board cannot consider any financial concerns the applicant may have over building a one-car garage versus a two-car garage. We are looking at whether a variance is necessary to further a property right. A garage is a customary residential structure, but creating a non-conforming structure where one does not exist does not preserve a substantial property right when the site is zoned, developed and constructed and has been used for single family residential uses. A substantial property right is not advanced or preserved based on granting a variance for a single particular architectural design. The proposed garage could be reduced in size to comply with the setback standards or a reduced variance request could be made so that we would not have the 3.9-foot front yard setback. One of the purposes of a Zoning Ordinance is to create an order to development, not restrict development but to make it orderly, particularly in neighborhoods and particularly in our higher density areas like our waterfront lots. This portion of Redding Drive has been developed with access easements and non-conforming structures and not the organized pattern we are trying to achieve through our zoning code. Creating a non-conforming structure does not take any steps toward developing the area orderly. The house being built adjacent to this lot is being built without variances so it can be done. Staff is suggesting that it can be done on this property by reducing the project or relocating it. This site is in the North Chain of Lakes Planning Area and the plan would not adversely affect the intent of the Master Plan. Staff believes there is no condition or situation that is so general or recurrent in nature that the proposed accessory structure cannot comply with the setback requirements. We have addressed many conditions that are recurring by our recent zoning text amendments. There is no amendment appropriate in this situation that would address anything on this property. The variance request would not change the use from single family residential to another use that is not permitted outside of the Zoning Ordinance. Again, it is the size of the proposed structure that is driving the need for the 3.9-foot front yard setback and there is nothing here that would warrant deviation to the Zoning Ordinance.

Discussion was held on the property lines and access easements.

The question was asked if there are any supporting letters from the neighbors. Mr. Hall stated he did show

the neighbors his plans and they have all indicated that they would provide support. It was stated that all of the neighbors would have received notice from the Township. If they objected, they would be here.

Member Bohn asked what the current allowance is for an accessory structure or traditional shed that does not require a site plan. Steffens stated that everything requires a plot plan and land use permit. If it is under 200 square feet, you do not need to go to the County for a building permit. Member Bohn asked if it would require the same setback requirement. Steffens stated that it does.

Member Bohn stated that traditionally homes have a two-car garage and the homes in the area all have two-car garages, which are typically 24 x 24 feet. Steffens stated that if they reduced the garage to 24 x 24 feet, that would give them a 10-foot setback and a net loss of 146 square feet which would come closer to complying with the Zoning Ordinance. Mr. Hall stated that would require him to have a shed for his snowmobile and other equipment. Furthermore, he stated that the standard is going toward a three-car garage for single family homes. It was stated that the garage could be deeper, but it would be more complicated getting equipment in and out. Mr. Hall stated that he also has a sewer line that runs through the property that he does not know how it could be re-routed. Further discussion was held on the sewer line.

Discussion was held on the grade of the property as well as the floodplain area.

Further discussion was held on reconfiguring the garage. Mr. Hall discussed the difficulty in tying in the roof line and architectural design. If the board decides to ultimately grant a variance for a smaller garage he would look at it. He currently has a 22' x 22' foot two-car garage that he can barely fit his two cars and has to have two sheds for his remaining equipment. If he was going to ask for a variance anyway, he was going to ask for a larger variance to get what he ultimately wanted.

The question was asked if this were to be tabled, would the applicant have to pay an additional fee. Steffens stated that the Board could table the request and ask for the applicant to submit an alternative design, which would not require an additional fee. The Board could also approve the request with a smaller footprint. The Board could deny the request, but unless the applicant submitted a plan substantially different than this request, they would have to wait a year to re-apply. Mr. Hall stated that he would not have a problem with delaying the decision. It was stated that it seems to be a consensus of the Board that they want to give the applicant the size garage he wants, just not in the requested configuration and having a reduced variance to the setback. Mr. Hall stated that he does not have a problem with looking at a different configuration. Discussion was held on the existing storage area in the existing structure.

Mr. Hall stated that if the Board would consider approving a 24' x 24' garage, he would consider if that is something he could live with, and it would be basically the same plan simply taking 6 feet off the front. He would then consider an area where he could put up a shed that complies. That is what he was trying to avoid.

The Board could consider the 24' x 24' garage tonight or the applicant could request that it be tabled to the June 13th meeting to give him time to review and submit an alternate plan. Steffens stated that the notice was for a 732 square foot garage, and we would not have to re-notice this if he were to come back with a 24'x24' garage. If he reduces the setback request but increases the square footage, we would have to re-notice it. The notification for the June 13th meeting would have to be on the paper by May 24th. If we have to re-notice, the applicant would be required to pay the cost for re-noticing. Mr. Hall asked if he comes back and requests the

simple reduction to 24' x 24' would he have to submit additional plans. It was stated that he would not, but he would have to submit new plans when applying for the permit. Mr. Hall asked that the Board table his request at this time.

Motion by Bohn, supported by Neilson

To table variance application ZBA 18-005 at 5150 Redding to the June 13, 2018 meeting.

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

Mr. Hall asked how close a detached structure could be from the existing structure. Ms. Steffens stated that the required setback would be 10 feet unless it is attached, and attached could be a canopy or breezeway. Mr. Hall thanked the Board for their help and consideration.

Discussion was held on the floodplain and topographical survey.

8. New/Old Business:

- a. Approval of April 11, 2018 meeting minutes and findings of fact for ZBA 18-004

Steffens stated that she would like to remove adoption of the minutes from the agenda because there is some concern that the motion for last month's hearing was done incorrectly.

9. Adjournment:

Motion by Neilson, supported by Auxier

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 1 MOTION CARRIED

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved
As presented/Corrected: _____

Acting Chairperson Bohn